

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed May 28, 2004. Applicant respectfully requests reconsideration and favorable action in this case.

Claim Objections

The Examiner objected to Claim 42 as failing to further limit Claim 9. Applicant has cancelled Claim 42.

Rejections under 35 U.S.C. § 103

Claims 9, 32-46 and 50-61 stand rejected as obvious over U.S. Publication No. 2002/0128946 ("Chehade").

In rejecting the Claims, the Examiner relies on Chehade. Because Chehade was published and issued after the filing of the present application, Applicant presumes that the Examiner is submitting Chehade as prior art under 35 U.S.C. §102(e). The relevant portions of 35 U.S.C. §102(e) read:

A person shall be entitled to an invention unless . . . the invention was described in (1) an application for patent, published under 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent . . .

Applicant respectfully submits that the present was conceived at least as early as September 1999 and was reduced to practice as a prototype software application at least as early as November 1999. Attached hereto as Exhibit A is the Declaration of Mr. David G. Lee averring to these facts. Additionally, attached hereto as Exhibit B is a copy of an invention disclosure form submitted by Mr. Lee with respect to the present invention. As the present invention was invented prior to the Jan. 9, 2001 filing date, Applicant submits that Chehade is not valid prior art under 35 U.S.C. §102(e). Applicant therefore requests that the Examiner withdraw the rejections and allow all the pending claims.


Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully

requests full allowance of all Claims pending in the application. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

**Sprinkle IP Law Group**  
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